

**COMPLAINT INVESTIGATION
CLARK COUNTY SCHOOL DISTRICT
(#CL020218)**

Report Issued on April 13, 2018

INTRODUCTION

On February 2, 2018 the Nevada Superintendent of Public Instruction received a Complaint from a Parent alleging violations of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §1400 et seq.; the IDEA regulations, 34 C.F.R. Part 300; Chapter 388 of the Nevada Revised Statutes; and the Nevada Administrative Code (NAC), alleging that the Clark County School District (CCSD) failed to provide an algebra class required for the student to receive a standard high school diploma, failed to convene the student's Individualized Education Program (IEP) Team after Parent's request and failed to provide Parent with required notification regarding Parent's ongoing representation of the student's educational interests¹. The Parent's proposed resolution to the Complaint requested that the student's grades, Grade Point Average (GPA), and diploma category be reviewed and addressed.

Subsequent to the receipt of the Complaint and initial correspondence with the Parent and CCSD, and due to a delay in the receipt of CCSD's response to the Complaint, NDE extended the time limit to conclude its investigation of the Complaint from April 3, 2018 to April 20, 2018 due to exceptional circumstances. 34 CFR §300.152(b). (NDE Correspondence, dated 4/12/2018)

The Parent's Complaint and all documentation provided by the Parent, as well as all documentation provided by CCSD in response to the Complaint were reviewed and considered in their entirety in this investigation. Further, an interview with the Parent was conducted and considered, as well as additional documentation requested and received from CCSD. The Findings of Fact cite the source(s) of the information deemed necessary to resolve the issues in this Complaint.

COMPLAINT ISSUES

The allegations in the Complaint that are under the jurisdiction of the Nevada Department of Education (NDE) to investigate through the special education complaint process raise the following issues for investigation:

¹ Parent raised additional allegations not under the jurisdiction of the Nevada Department of Education (NDE) to investigate. These were referred to appropriate authorities. (NDE Correspondence, dated 2/12/2018)

Issue One:

Whether the CCSD complied with the IDEA and the NAC, Chapter 388, with regard to implementing the student's IEP(s) from February 2, 2017 through October 2017, specifically with regard to the provision of an algebra class to enable the student to receive a standard diploma.

Issue Two:

Whether the CCSD complied with the IDEA and the NAC, Chapter 388, and either provided a prior written notice (PWN) or convened the student's IEP Team upon the Parent's written request for an IEP meeting at the commencement of the 2017/2018 school year.

Issue Three:

Pursuant to NAC §388.197, if the student is a student who has a significant cognitive impairment and who participates in the alternate assessment, whether the CCSD, not less than one year before the date the student turned 18 years of age, provided notice, including a copy of the application, to the Parent and the student of the procedure by which the Parent could submit an application to represent the education interests of the student.

FINDINGS OF FACT

1. The student, born 1/21/2000, is eligible for special education services pursuant to IDEA and NAC, Chapter 388, under the category of Autism Spectrum Disorder. (2/24/2017 IEP)
2. The student was enrolled in eleventh grade in CCSD in the 2016/2017 school year and is enrolled in the twelfth grade in the 2017/2018 school year. (2/26/2016 IEP; 2/24/2017 IEP)
3. An IEP Team meeting was conducted to develop an annual IEP on 2/26/2016 and the resulting IEP was implemented beginning 2/26/2016. (2/26/2016 IEP)
4. The student's 2/26/2016 IEP states the student is pursuing a "Standard or Advanced High School Diploma" and indicates "[Student] is on track to receive (sic.) a regular diploma." (2/26/2016 IEP)
5. No specific math course is identified in the student's 2/26/2016 IEP. The student's 2/26/2016 IEP lists the following single goal relating to mathematics:

"By annual review date, in the special education class, [Student] will fluently multiply multi-digit whole numbers using the standard algorithm. (5.NBT.B.5) achieving a criteria of 8 out of 10 trials as measured by observation, documentation and work samples as implemented by Special Education Teacher." (2/26/2016 IEP)

6. The student's 2/26/2016 IEP indicated expected participation in the High School Proficiency Examination and the Proficiency Examination in Writing and listed participation in assessment under the Nevada Alternate Scales of Academic Achievement as "Not Applicable." (2/26/2016 IEP)
7. The Parent's signature appears under IEP implementation indicating agreement with the components of the IEP and understanding the provisions will be implemented as soon as possible after IEP went into effect. (2/26/2016 IEP)
8. An IEP Team meeting was conducted to develop an annual IEP on 2/24/2017 and the resulting IEP was implemented beginning 2/24/2017. (2/24/2017 PWN)
9. The student's 2/24/2017 IEP states the student is pursuing a "Standard or Advanced High School Diploma." (2/24/2017 IEP)
10. The student's 2/24/2017 IEP indicates the Parent expressed concern that the Student needed to take some Algebra. Notwithstanding such concern, the Parent's signature appears under IEP implementation indicating agreement with the components of the IEP and understanding the provisions will be implemented as soon as possible after IEP went into effect. (2/24/2017 IEP)
11. No specific math course is identified in the student's 2/24/2017 IEP. The student's 2/24/2017 IEP lists the following single goal relating to mathematics:

"By annual review date, [Student] will increase the ability to select and apply mathematical operations in a variety of contexts to 80% accuracy as measured by classwork and performance assessments in the special education class." (2/24/2017 IEP)
12. The student was found not to demonstrate cognitive abilities and/or adaptive behaviors that would limit full participation in the general education curriculum and state-wide assessments, and the IEP Team determined the student would not participate in an alternate assessment. (2/24/2017 IEP)
13. CCSD maintains the position that Algebra I is not required for the student to receive a standard high school diploma in the 2017/2018 school year. While the Parent asserts the student should have been provided Algebra I, she does not disagree with CCSD's position that it is not required for the student to receive a standard diploma in the 2017/2018 school year. (CCSD Investigation Response, Parent Interview)

14. CCSD states it has no documentation indicating a Parental request for an IEP Team meeting in Fall of 2017. The Parent has no written documentation substantiating a Fall 2017 IEP Team request to CCSD. (CCSD Complaint Response; Parent interview)

CONCLUSIONS OF LAW

Issue One:

Whether the CCSD complied with the IDEA and the NAC, Chapter 388, with regard to implementing the student's IEP(s) from February 2, 2017 through October 2017, specifically with regard to the provision of an algebra class to enable the student to receive a standard diploma.

A student's IEP describes his/her individual needs and sets out the proper placement and services designed to meet those needs and, thus, provide the student a FAPE. *Schaffer v. Weast*, 44 IDELR 150 (U.S. 2005). Once an IEP is developed for a student, the public agency must implement the student's IEP with all of its required components. 34 C.F.R. 300.323; NAC §388.281. NAC §389.664 requires a minimum of three credits of mathematics to obtain a standard diploma and does not prescribe specific courses required to obtain these credits. NAC §389.664. Consistently, NAC §389.450 permits a variety of courses to satisfy the mathematics course requirement for graduation from a public high school.

The facts relevant to the issues in this Complaint indicate that the student's 2/26/2016 IEP was implemented in the 2016/2017 school year, until an annual review was held and the 2/24/2017 IEP was developed and implemented. (Findings of Fact (FOFs) #3, #8) Parent's Complaint alleges that CCSD should have provided the student Algebra I in order for the student to graduate with a standard high school diploma. The student's IEPs in effect during the time period in question corroborate Parent's position that the student is pursuing a standard high school diploma. (FOFs #4, #9)

Notwithstanding Parent's allegation that the student should have been provided an Algebra I course, the IEPs in effect during the time period relevant to this Complaint, while articulating math goals, do not indicate that the student would receive Algebra I. (FOFs #5, #11) Furthermore, both Parent and the CCSD concur that Algebra I is not required for the student to receive the standard high school diploma that is foreseen by the relevant IEPs. (FOF #13) NAC §§389.664; 389.450.

Therefore, CCSD implemented the student's 2016/2017 and 2017/2018 IEPs in compliance with the provisions of IDEA and NAC, Chapter 388, with regard to providing mathematics coursework that afforded the student the opportunity to attain the mathematics credits necessary to achieve a standard high school diploma.

Issue Two:

Whether the CCSD complied with the IDEA and the NAC, Chapter 388, and either provided a PWN or convened the student's IEP Team upon the Parent's written request for an IEP meeting at the commencement of the 2017/2018 school year.

Pursuant to the IDEA, 34 C.F.R. §300.324(b)(1), and NAC §388.281(6)(a), each public agency must ensure that the IEP Team reviews a student's IEP periodically, but not less than annually, to determine whether the annual goals for the student are being achieved and revise it, as appropriate. If the Parent requested an IEP meeting at the commencement of the 2017/2018 school year, the CCSD was required to either convene the student's IEP Team to review the student's IEP or provide the Parent with a PWN on its refusal to change the provision of a free appropriate public education to the student pursuant to the IDEA. 34 C.F.R. 300.503; NAC §388.300(8).

Parent's Complaint alleges that CCSD failed to convene an IEP Team meeting for review of the student's IEP after Parent made a written request to this effect subsequent to the start of the 2017/2018 school year. However, documentation reviewed and the interview conducted in the course of the investigation of this Complaint provided no documentary evidence that such a written request occurred. (FOF #14)

Under the IDEA and NAC, Chapter 388, the NDE is charged with investigating complaints filed regarding special education services and is specifically charged with reviewing all relevant information and making an independent determination as to whether the public agency is violating a requirement of a law or regulation. 34 C.F.R. 300.153; NAC §388.318(d). As indicated above, all information relevant to this issue was reviewed and it is determined that no conclusive evidence exists of a parental request for an IEP Team meeting at the commencement of the 2017/2018 school year, such that a PWN or IEP Team meeting would have been required.

Therefore, there was insufficient evidence to determine whether CCSD complied with the IDEA and the NAC, Chapter 388, and provided a PWN or convened the student's IEP Team at the commencement of the 2017/2018 school year because no evidence was submitted that indicated the Parent made such a written request.

Issue Three:

Pursuant to NAC §388.197, if the student is a student who has a significant cognitive impairment and who participates in the alternate assessment, whether the CCSD, not less than one year before the date the student turned 18 years of age, provided notice, including a copy of the application, to the Parent and the student of the procedure by which the Parent could submit an application to represent the education interests of the student.

Under the NAC §388.195, educational rights afforded to parents of a student with a disability pursuant to the IDEA transfer to the student when they attain age 18. NAC §388.195. Additional notice provisions regarding parental application to represent the educational interests of the student apply for students who have a significant cognitive disability and who participate in the alternative assessment. NAC §388.197.

Parent's Complaint alleges that CCSD failed to provide the required notice and application to the Parent to represent the education interests of the student. However, the facts established in the investigation of the Complaint indicate that the student is neither a student with a significant cognitive impairment, nor do they participate in the alternate assessment. (FOF #6, #12). Absent these conditions, the notice and application which the Parent alleges were not timely received were not required to be provided to the Parent.

Therefore, CCSD was not required to comply with NAC §388.197. The student does not have a significant cognitive impairment and does not participate in the alternate assessment; thus, CCSD was not required to provide notice or a copy of an application for Parent to represent the education interests of the student after age 18.